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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,711	02/26/2002	Gregory G. Brucker	S63.2-10306	9951

490 7590 07/02/2004

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,711	Applicant(s) BRUCKER ET AL.	
	Examiner Sarah K Webb	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/17/02</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, Species of Figures 14 and 15, in the paper dated 6/7/04 is acknowledged.

Information Disclosure Statement

2. The information disclosure statement filed 4/23/02 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 32-38, 40, and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,325,826 to Vardi et al.

Vardi discloses a stent in Figure 6 that includes a first section (12) and second section (15) with a plurality of linkage members (18) that link an end of the second section (15) to a portion of the first section (12). As clearly illustrated in Figures 6a-g,

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the second section (15) is deployed independently of the first section (12). The linkage members (18) provide an articulated engagement, or joint, between the stent sections. The links are bendable to various angles, as Vardi explains that the "the angle at which the optionally expandable branch stent 15 is affixed depends upon the vessel structure into which the bifurcating stent apparatus 10 is inserted" (column 7, lines 61-63). The range that the links can be bent includes 10 to 120 degrees, as Figures 1-3 illustrate a 10-degree engagement and Figure 6 illustrates a 120-degree engagement between the stent sections. There are six linkage members (18) defined by loops that are shown in Figures 6a-g on one side of the stent, and there are inherently at least two more loops on the other side of the stent that are not illustrated. The links are curvilinear and can be described as "*substantially S-shaped*." "S-shaped" was given a broad interpretation, since applicant describes the primarily linear links (102) of Figure 15 of the application as "S-shaped." Vardi explains that the stent can be "self-expanding" (column 9, line 33), which inherently means that the links can be formed from shape memory metal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi in view of US Patent No. 6,071,298 to Lashinski et al.

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Vardi includes all the limitations of claim 39, except for selectively annealing the links of the stent. Vardi states that it is desirable for different portions of the stent to have different yield strengths (column 9, line 52 – column 11, line 25). Lashinski teaches that stent sections can be selectively annealed in order to obtain different yield strengths. More annealing provides greater a lower yield strength greater flexibility. (column 4, lines 34-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to selectively anneal the links of the stent of Vardi, as taught by Lashinski, as this provides the links with greater flexibility.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Figures 12 and 13 of US Patent No. 6,468,301 (Amplatz et al.) and US Patent No. 5,782,906 (Marshall et al.) Both patents anticipate several structural limitations of the claimed invention.

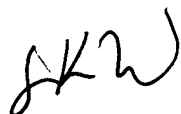
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott or Shaver can be reached on (703) 308-0858. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW
06/23/04



DAVID O. REIP
PRIMARY EXAMINER